

## **Eligibility**

### **1. What are the three prongs of eligibility?**

ARSD 24:05:24.01:01 Students with disabilities are students evaluated in accordance with chapter 24:05:25 as having autism, deaf-blindness..., which adversely affects educational performance, and who, because of those disabilities, need special education or special education and related services.

Therefore, the 3 prongs are 1) the student must have a diagnosed disability (standard scores obtained from evaluations), 2) the disability must adversely affect educational performance (obtained from functional assessment information, informal review and interview etc.), and 3) the student needs special education in order to receive a Free Appropriate Public Education (student required specially designed instruction or an IEP).

### **2. How do you document cultural/economic/social disadvantage on the eligibility document?**

The IEP team needs to carefully consider each of these areas as it is related to student's eligibility under the category of specific learning disabilities. Parents and the district need to initiate a conversation regarding these issues as they are determined relevant for the purpose of eligibility determination. In the event the team concludes a student is not eligible due to any of these areas, a summary of the team's discussion leading to the decision should be documented in the eligibility document.

### **3. How do I complete the SLD criteria questions on the eligibility document if it is a reevaluation?**

The information needed for responding to the questions is gathered during the evaluation process.

### **4. If a child is evaluated for a specific learning disability, does the team have to complete the front page of the states recommended form "Determination of Eligibility/Continued Eligibility"?**

The front page of this document included information used as a "basis for making the determination". For a child suspected of having a specific learning disability, the documentation of the determination of eligibility shall contain a statement of the "basis for making the determination"... This is a content requirement for documenting specific learning disabilities. This information is acquired from a variety of sources gathered during the evaluation process and must be documented as part of the additional requirement for determining a student eligible under the category of specific learning disabilities.

### **5. Does the eligibility document signature section need to be under the SLD section or can they be cut and pasted to the end of the document?**

Team signatures are a content requirement specific to the category of specific learning disabilities. However the form is a recommended form and may be modified to suit the district's purpose. Placing the signatures at the end of the document would still meet the content requirements for SLD.

**6. Do we need signatures if we use the eligibility document for a disability other than SLD?**

Team signatures are a content requirement specific to the category of specific learning disabilities however, upon completing the administration of assessments and other evaluation measures as required, the individual education program team and other qualified individuals shall determine whether the student is a student with a disability, and shall determine the educational needs of the child. This is verified through the IEP team membership on the eligibility document or the cover page of the IEP.

**7. Does the SLD eligibility document statement about scientific information just apply for RtI?**

If a district is using RtI for determining eligibility under the category of specific learning disability the district must answer this question in the form. In the content requirements for a specific learning disability, the documentation of the determination of eligibility shall contain a statement of...if the child has participated in a process that assesses the child's response to scientific, research-based intervention.

**8. If we use the eligibility document, can we delete/remove the pages that do not apply?**

If the child was not evaluated for a suspected learning disability, then those pages would not be required for inclusion in the document.

**9. Do we address highly qualified personnel in the eligibility document?**

The district must consider if the student received services from highly qualified staff as part of the content requirements when evaluating for a child for the category of specific learning disability.

**10. Do we need an eligibility document for all students receiving special education following an initial or a reevaluation?**

The school district shall provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

**11. Explain multiple disabilities. Why can't you use speech and Other Health Impaired (OHI) as a way to place a student in the multiple disability categories?**

By definition, multiple disabilities mean concomitant impairments (such as cognitive disability-blindness or cognitive disability-orthopedic impairment) the combination of which causes such a severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments.

It is possible, but highly unlikely that the speech needs of the child could not be accomplished through the student receiving speech therapy as a related service. The IEP team would need to conclude that the speech impairment was so severe that the educational needs could not be addressed under the category of other health impairment in order to report the student as a student with a multiple disability.

**12. Do students moving in from out of state who qualified through an RTI model have to be reevaluated?**

Students, who transfer in from another state, must meet South Dakota's eligibility criteria in order to be placed on South Dakota's child count. If a student with a disability, who had an IEP that was in effect in a previous school district in another state, transfers to a school district in South Dakota, and enrolls in a new school within the same school year, the new school district, in consultation with the parents, shall provide the child with FAPE, including services comparable to those described in the student's IEP from the previous school district, until the new school district:

- (1) Conducts an evaluation pursuant to chapter 24:05:25, if determined to be necessary by the new school district; and
- (2) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in this chapter.

Districts need to review the evaluation data received by other districts due to student transfers and ensure the evaluation data supports South Dakota eligibility criteria. This applies to the states RtI or discrepancy criteria.

**13. If a district chooses to use RtI for eligibility does the district need an approved RtI plan?**

School districts that elect to use a response to intervention model as part of the evaluation process for specific learning disabilities shall submit to the state for approval a formal proposal that at a minimum addresses the required documentation for eligibility for specific learning disabilities.